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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,254	08/08/2001	Suhas G. Niyogi	US 18016	2801

7590 03/26/2003
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912 Appleton Road
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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 03/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

Applicant(s)

09/924,254

NIYOGI, SUHAS G.

Examiner

Art Unit

Jeffrey C. Mullis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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All remaining rejections and/or objections follow.

Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "polymerized monomer" as appears in at least claims 1 and 11 lacks antecedent basis within claims 1 and 11 in that the term "polymerized monomer" appears only once in these claims. If applicant intends that the polymerized monomer is some other monomer not referred to as polymerized monomer *ipsis verbis*, then there are a number of materials recited in the claims inherently containing monomers which are polymerized and it is not clear which polymerized monomers are intended.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-7 and 10-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindner et al. (USP 4,767,821).

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See the previous Office action at page 3 lines 15 et seq.

Claims 1, 2 and 4-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Genz et al. (USP 4,945,130).

See the previous Office action at page 4 line 1 et seq.

Applicant's arguments filed 1-7-03 have been fully considered but they are not deemed to be persuasive.

With regard to the issue of rejection under 35 U.S.C. § 112 and the term "polymerized monomer", the Examiner can find no argument in response to this specific issue.

With regard to the rejection under 35 U.S.C. § 103 in the rejection relying upon Lindner et al., applicants admit that Lindner's compositions "may include EPDM grafted by methyl methacrylate". But nonetheless "no component in the composition of Lindner et al. . . . corresponds to applicant's component (A)". However EPDM is a propylene polymer since EPDM contains propylene and an ester of acrylic acid substituted on the alpha carbon atom by one alkyl group is methyl methacrylate.

In regard to applicant's argument that the rubber substrate for the graft copolymers of Lindner et al. has no counterpart in applicant's composition, applicant's claims are not so limitative as to exclude any component. With regard to components 4 or 5 of applicant's claim 2, it is noted that a number of materials may be used as alternatives in applicant's claims aside from components 4 and 5. Applicants argue that there is no mention in

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Lindner of improving the thermal stability of acrylic graft copolymers by adding a small amount of fluorinated monomer. However applicants have not been clear as to what this has to do with patentability. There is no limitation in the claims pertaining to such a feature.

With regard to Genz et al., applicants argue that "Applicant's specification does not disclose using a combination of a fluorinated polyolefin and an elastomeric graft copolymer as an additive for another polymer system". However applicant has not been clear as to what this has to do with patentability. Applicant also argues that "there is no motivation to add applicant's blend of an acrylic graft copolymer and a fluorinated polyolefin to another polymer system". Moreover there is nothing in the claims excluding adding applicant's blend of an acrylic graft copolymer and a fluorinated polyolefin to another polymer system. Applicant argues "there is no graft copolymer disclosed in applicant's specification that corresponds to the elastomeric graft copolymers of Genz et al." However there is nothing in the instant claims excluding such a material.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS

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ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

March 24, 2003

Jeffrey Mullis
Primary Examiner
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